

REMARKS

This Amendment is responsive to the Office Action mailed July 14, 2010. Upon entry of the instant Amendment, claims 1-10 and 14-22 will be canceled, and claims 11-13 will be amended, so that claims 11-13 will be pending and under consideration. No new matter has been added. Applicants preserve their right to file one or more suitable continuation and/or divisional applications directed to the canceled subject matter.

Support for the instant amendments to the claims can be found throughout the specification and claims as filed, including, e.g., at page 5, lines 8-19 and page 11, lines 16-19, as well as original claims 10-11.

The present amendment to the specification is made to correct sequence information pertaining to KkG (SEQ ID NO: 1), which sequence was correctly set forth in Figure 3. In particular, Applicants note that SEQ ID NO: 1 is clearly directed to KkG as set forth, for example, at Figure 3 and page 9, lines 12-13 of the Specification. Applicants further note that the KkG sequence contains an arginine residue ("Arg" or "R") at position 13 as set forth in Figure 3, and the instant amendment corrects SEQ ID NO: 1 insofar as it was previously listed as containing a leucine ("Leu" or "L") residue at position 13. Applicants further note that SEQ ID NO: 2, which encodes SEQ ID NO: 1, has also been amended to reflect the correct nucleotide sequence at positions 37-39 encoding position 13 of SEQ ID NO: 1, support for which may be found, for example, in the nucleic acid sequences encoding proteins derived from SEQ ID NO: 1, and which also encode an Arg residue at position 13, for example, SEQ ID NO: 13 (see also specification at Examples 1-2 on pages 20-30).

Insofar as the Sequence Listing text file attached hereto is being submitted via EFS-Web and complies with the requirements of 37 CFR 1.824(a)(2)-(6) and (b), the text file serves as

both the paper copy required by 37 CFR 1.821(c) and the computer readable form (CRF) required by 37 CFR 1.821(e) in accordance with the October 27, 2009 Notice entitled "Legal Framework for Electronic Filing System – Web (EFS-Web)," 74 Fed. Reg. 55200.

Interview Summary

Applicants express appreciation for the courtesies extended by Examiner Kam during a December 15, 2010 interview and in a follow-up telephone call on January 4, 2011 with Applicants' representative Walter Schlapkohl regarding the above-identified application.

During the telephone call of December 15, 2010, Applicant's representative discussed the written description and anticipation rejections of record with the Examiner. In particular, Applicants' representative and the Examiner discussed language, including language suggested by the Examiner, that might be acceptable and result in the withdrawal of the written description rejection, as well as the rejection under 35 U.S.C. § 102(e). In a follow-up telephone call on January 4, 2011, Mr. Schlapkohl was advised by the Examiner that claim amendments in accordance with those included herewith appeared acceptable.

Claim Rejections – 35 U.S.C. § 112, First Paragraph

The Office Action rejects claims 8 and 11-13 as allegedly failing to comply with the written description requirement.

In response, and without acquiescing to the propriety of the rejection, Applicants submit that the instant Amendment is responsive to the present rejection. In particular, Applicants submit that the instant Amendment is in accordance with suggestions made by the Examiner in an interview and follow-up telephone call as discussed above.

Applicants further submit that the instant rejection is rendered moot with respect to claim 8 insofar as claim 8 has been canceled.

Based at least on the foregoing, Applicants respectfully request reconsideration of the rejection under 35 U.S.C. § 112, first paragraph (written description), and withdrawal of the same.

Claim Rejections – 35 U.S.C. § 102

The Office Action also rejects claim 11 under 35 U.S.C. § 102(e) as allegedly anticipated by Almond et al. (US 2003/0157643; hereinafter “Almond”). In particular, the Office Action asserts that Almond discloses SEQ ID NO: 21 which comprises nucleotides 1-11 and 359-416 of instant SEQ ID NO: 13, and thus anticipates claim 11 insofar as claim 11 is allegedly directed to fragments of SEQ ID NO: 13. The Office Action further asserts that SEQ ID NO: 21 of Almond has sequence identity of 81.3%, 80.8%, 79.9% and 79.9, respectively, to SEQ ID NO:s 13, 15, 17, and 19.

In response, and without acquiescing to the propriety of the rejection of claim 11, Applicants submit that the instant Amendment is responsive to the present rejection. In particular, Applicants submit that claim 11 has been amended to recite “*the* nucleotide sequence shown in SEQ ID NO: 2, 13, 15, 17, 19, or 21” (emphasis added) which language is clearly directed to DNA comprising the complete structure of the recited nucleotide sequences. Applicants further submit that SEQ ID NO: 2 is 684 nucleotides long and that nucleic acids comprising SEQ ID NO: 2 with 1-60 nucleotide substitutions include sequences having >90% sequence identity to SEQ ID NO: 2. Moreover, Applicants submit that the instant Amendment is

also in accordance with suggestions made by the Examiner in an interview and follow-up telephone call as discussed above.

Based at least on the foregoing, Applicants respectfully request reconsideration of the rejection under 35 U.S.C. § 102(e), and withdrawal of the same.

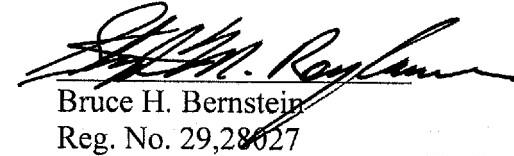
CONCLUSION

In view of the foregoing, Applicants respectfully request withdrawal the rejections of record and the prompt mailing of a Notice of Allowance and Allowability.

No fee is believed due at this time. However, the Office is authorized to charge any fee deemed necessary to maintain pendency of the instant application to Deposit Account No. 19-0089.

If there are any issues that remain, which may be resolved through telephone discussion, the Examiner is invited to telephone the undersigned.

Respectfully Submitted,
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January 13, 2011
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